

Serial No.: 09/857,650
Amendment & Response

Attorney Docket No.: 18872.0105

Remarks

Favorable action on the above-identified patent application, as amended herein, is respectfully requested.

This Amendment is in response to the Office Action dated July 9, 2003. Claims 1-11 are pending in the present application. Of these claims, only claims 1 and 10 are independent. Claims 1 and 10 have been amended to further clarify the invention. Claims 2, 4, 5 and 11 remain unchanged from the originally filed claims, and Claims 3 and 6-9 remain as previously amended. Claims 12-15 and 17-18 have been withdrawn from consideration, and Claims 16 and 19 have been previously canceled. No new subject matter has been added to the application.

Rejection of Claims 1-11 Under 35 USC 112, Second Paragraph

Withdrawal of the rejection of claims 1-11 as being indefinite is respectfully requested for the following reasons. Claim 1 has been amended further clarify the invention. Specifically, Claim 1 has been amended to incorporate the optional steps of "milling or grinding or breaking" into a proper Markush Group: "...optionally, subjecting the dried foam to a process selected from the group consisting of milling, grinding, breaking and combinations thereof to form a powder."

Claim 10 has also been amended herein to further clarify the invention. Specifically, Claim 10 has been amended to remove the phrase "thereby produced."

Accordingly, it is believed that the amended claims now conform to 35 USC 112, second paragraph, and therefore withdrawal of this rejection is respectfully requested.

Serial No.: 09/857,650
Amendment & Response

Attorney Docket No.: 18872.0105

As for the non-elected claims (claims 12-15 and 17-18), Applicants reserve the right to pursue these claims in a divisional application.

Conclusion

Based on the amendments and arguments presented herein, it is believed claims 1-11 are in a state of allowance and therefore, the Examiner is respectfully requested to allow these claims.

This response is being filed within three months of the date of the Office Action and therefore, it is believed that no fee is due. However, if that is incorrect, the Examiner is authorized to charge any fee due to Deposit Account no. 08-2442 of the undersigned.

The undersigned attorney/agent requests that the Examiner contact him/her at the telephone number indicated below to resolve any remaining issues raised herein so that an Examiner's amendment may be utilized as appropriate.

Respectfully submitted,
HODGSON RUSS LLP
Attorneys for Applicants

RECEIVED
CENTRAL FAX CENTER

OCT 08 2003

Date: October 8, 2003

HODGSON RUSS LLP
One M&T Plaza
Suite 2000
Buffalo, New York 14203-2391
Tel: (716) 856-4000

By: *Rachel S. Watt*
Rachel S. Watt
Patent Agent
Reg. No. 46,186
Acting under 37 CFR 1.34(a)

OFFICIAL